

ARTICLE VI

CONTRACTUAL PROVISIONS

6.1. If either Party determines that Contracting is necessary to fulfill its obligations under the scope of work of a PA, that Party shall contract in accordance with its respective national laws, regulations and procedures.

6.2. When one Party individually contracts to carry out a task under a PA, it shall be solely responsible for its own contracting, and the other Party shall not be subject to any liability arising from such Contracts without its written consent.

6.3. The Parties may also determine that one Party's Contracting Agency should enter into a Contract to fulfill their joint PA obligations or the PA obligations of the non-contracting Party. That Contracting Agency shall contract for both Parties in accordance with its national laws, regulations, and procedures. If necessary to meet the requirements of a PA, the U.S. DoD's Contracting Officer or the MINDEF Contracting Agency shall seek deviations from national regulations and procedures wherever possible. Sources from both Parties' industries shall be allowed to compete on an equal basis for such Contracts. The U.S. DoD Contracting Officer or the MINDEF Contracting Agency shall be the exclusive source for providing contractual direction and instructions to Contractors for Contracts awarded by that Party.

6.4. For all Contracting activities performed by either Party, the POs shall, upon request, be provided a copy of all statements of work prior to the development of solicitations to ensure that they are consistent with the provisions of this Agreement and the applicable PA.

6.5. For all Contracting activities performed by either Party, each Party's Contracting Agency shall negotiate to obtain the rights to use and disclose Project Information required by Article VIII (Disclosure and Use of Project Information). Each Party's Contracting Agency shall insert into its prospective Contracts (and require its Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this Agreement, including Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), Article XI (Security), and Article XII (Third Party Sales and Transfers). During the Contracting process, each Party's Contracting Officer shall advise prospective Contractors of their obligation to notify the Contracting Agency immediately if they are subject to any license or agreement that will restrict that Party's freedom to disclose Project Information or permit its use. The Contracting Officer shall also advise prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that will result in such restrictions.

6.6. In the event a Party's Contracting Agency is unable to secure adequate rights to use and disclose Project Information as required by Article VIII (Disclosure and Use of Project Information), or is notified by Contractors or prospective Contractors of any restrictions on the disclosure and use of Project Information, that Party's PO shall notify the other Party's PO of the restriction(s).

6.7. Each Party's PO shall promptly advise the other Party's PO of any cost growth, schedule delay, or performance problems of any Contractor for which its Contracting Agency is responsible.

6.8. No requirement shall be imposed by either Party for worksharing or other industrial or commercial compensation in connection with this Agreement that is not in accordance with this Agreement or its PAs.

ARTICLE VII

PROJECT EQUIPMENT

7.1. Each Party may provide Project Equipment identified as being necessary for executing a specific PA to the other Party. Such Project Equipment shall remain the property of the providing Party. A list of all Project Equipment provided by one Party to another Party shall be developed, maintained, approved, and amended by the POs and shall be included in an annex to each PA.

7.2. The receiving Party shall maintain any such Project Equipment in good order, repair, and operable condition. Unless the providing Party has authorized the Project Equipment to be expended or otherwise consumed without reimbursement to the providing Party, the receiving Party shall return the Project Equipment to the providing Party in as good condition as received, normal wear and tear excepted, or return the Project Equipment and pay the cost to restore it. If the Project Equipment is damaged beyond economical repair, the receiving Party shall return the Project Equipment to the providing Party (unless otherwise specified in writing by the providing Party) and pay its replacement value as computed pursuant to the providing Party's national laws and regulations. If the Project Equipment is lost while in the custody of the receiving Party, the receiving Party shall issue a certificate of loss to the providing Party and pay the replacement value as computed pursuant to the providing Party's national laws and regulations. If known at the time of entry into force, the replacement value of the Project Equipment shall be specified in the PA.

7.3. All Project Equipment that is transferred shall be used by the receiving Party only for the purposes of carrying out the activities under a PA. In addition, in accordance with Article XII (Third Party Sales and Transfers) Project Equipment shall not be re-transferred to a Third Party without the prior written consent of the providing Party.

7.4. The providing Party shall deliver Project Equipment to the receiving Party at a mutually agreed location. Possession of the Project Equipment shall pass from the providing Party to the receiving party at the time of receipt of the Project Equipment. Any further transportation is the responsibility of the receiving Party.

7.5. Project Equipment transferred to one Party under a PA shall be returned to the providing Party prior to the termination or expiration of that PA.

7.6. Any Project Equipment which is jointly acquired on behalf of both Parties for use under a PA shall be disposed of during the PA or when the PA ceases, as agreed or directed by the Steering Committee or, if no Steering Committee is established, the POs.

7.7. Disposal of jointly acquired Project Equipment may include a transfer of the interest of one Party in the Project Equipment to the other Party, or the sale of such Equipment to a Third Party in accordance with Article XII (Third Party Sales and Transfers). The Parties shall share the

consideration from jointly acquired Project Equipment transferred or sold to a Third Party in the same ratio as costs are shared under this Agreement in a manner they determine to be fair at the time.

ARTICLE VIII

DISCLOSURE AND USE OF PROJECT INFORMATION

8.1. General

8.1.1. Both Parties recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out each PA. The Parties intend to acquire sufficient Project Information and rights to use such information to enable collaboration on basic, exploratory, and advanced technologies the maturation of which may lead to the development of technologically superior systems. The nature and amount of Project Information to be acquired shall be consistent with the objectives and scope stated in the PAs to this Agreement.

8.1.2. As set forth in paragraph 3.2, the Parties may exchange information under this Agreement for the purpose of harmonizing the Parties' requirements for formulating, developing, and negotiating PAs. The Party furnishing such information will clearly indicate to the receiving Party that it is furnishing such information for this purpose. Until a PA is signed, or if no PA is signed, a Party may use information received under paragraph 3.2 only for information and evaluation purposes and shall not disclose or transfer such information to a Third Party.

8.2. Government Project Foreground Information

8.2.1. Disclosure: Project Foreground Information generated in whole or in part by a Party's military or civilian employees shall be disclosed without charge to both Parties.

8.2.2. Use: Each Party may use all Government Project Foreground Information without charge for its Defense Purposes. The Party generating Government Project Foreground Information shall retain its rights of use thereto. Any sale or other transfer to a Third Party shall be subject to the provisions of Article XII (Third Party Sales and Transfers) of this Agreement.

8.3. Government Project Background Information

8.3.1. Disclosure: Each Party, upon request, shall disclose to the other Party any relevant Government Project Background Information generated by its military or civilian employees, provided that:

8.3.1.1. such Government Project Background Information is necessary to or useful in a specific PA. The Party in possession of the information

shall determine whether it is "necessary to" or "useful in" the specific PA;

8.3.1.2. such Government Project Background Information may be made available without incurring liability to holders of proprietary rights; and

8.3.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

8.3.2. Use: Government Project Background Information disclosed by one Party to the other may be used without charge by the other Party only for the project purposes of the particular PA for which it is necessary or useful. The furnishing Party shall retain its rights with respect to such Government Project Background Information.

8.4. Contractor Project Foreground Information

8.4.1. Disclosure: Project Foreground Information generated and delivered by Contractors shall be disclosed without charge to both Parties.

8.4.2. Use: Each Party may use without charge for its Defense Purposes all Contractor Project Foreground Information generated and delivered by Contractors of the other Party. The Party whose Contractors generate and deliver Contractor Project Foreground Information shall retain its rights of use thereto in accordance with the applicable Contract(s). Any sale or other transfer to a Third Party of Contractor Project Foreground Information shall be subject to the provisions of Article XII (Third Party Sales and Transfers) of this Agreement.

8.5. Contractor Project Background Information

8.5.1. Disclosure: Any Contractor Project Background Information, (including information subject to proprietary rights) generated and delivered by Contractors shall be made available to the other Party provided the following conditions are met:

8.5.1.1. such Contractor Project Background Information is necessary to or useful in a specific PA. The Party in possession of the information shall determine whether it is "necessary to" or "useful in" the specific PA;

8.5.1.2. such Contractor Project Background Information may be made available without incurring liability to holders of proprietary rights; and

8.5.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

8.5.2. Use: Contractor Project Background Information furnished by one Party's Contractors and disclosed to the other Party may be used without charge by the other Party only for the project purposes of the particular PA for which it is necessary or useful, and it may also be subject to further restrictions by holders of proprietary rights. The furnishing Party shall retain its rights with respect to such Contractor Project Background Information.

8.6. Alternative uses of Project Information

8.6.1. The prior written consent of each Party's Government shall be required for the use of any Project Foreground Information for purposes other than those provided for in this Agreement or any PA under it.

8.6.2. Any Project Background Information provided by one Party shall be used by the other Party only for the purposes set forth in this Agreement, unless otherwise consented to in writing by the providing Party's Government.

8.7. Proprietary Project Information

8.7.1. All unclassified Project Information subject to proprietary interests shall be identified and marked, and it shall be handled in accordance with Article IX (Controlled Unclassified Information). All classified Project Information subject to proprietary rights shall be so identified and marked, and handled in accordance with Article XI (Security).

8.8. Patents

8.8.1. Where a Party owns title to a Project Invention, or has the right to receive title to a Project Invention, that Party shall consult with the other Party regarding the filing of a Patent application for such Project Invention. The Party that has or receives title to such Project Invention shall, in other countries, file, cause to be filed, or provide the other Party with the opportunity to file on behalf of the Party holding title, or its Contractors, as appropriate, Patent applications covering that Project Invention. If a Party having filed or caused to be filed a Patent application decides to stop prosecution of the application, that Party shall notify the other Party of that decision and permit the other Party to continue the prosecution.

8.8.2. The other Party shall be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.

8.8.3. The other Party shall acquire a non-exclusive, irrevocable, royalty-free license to practice or have practiced, by or on behalf of the Party, throughout the world for Defense Purposes, any Project Invention.

- 8.8.4. Patent Applications that contain Classified Information to be filed under this Agreement or any PA under it shall be protected and safeguarded in accordance with the procedures set forth in Article XI (Security).
- 8.8.5. Each Party shall notify the other Party of any Patent infringement claims made in its territory arising in the course of work performed under any PA of this Agreement. Insofar as possible, the other Party shall provide information available to it that may assist in defending the claim. Each Party shall be responsible for handling all Patent infringement claims made in its territory, and shall consult with the other Party during the handling, and prior to any settlement, of such claims. The Parties shall share the costs of resolving Patent infringement claims in a manner they determine to be fair at the time the Patent infringement claim is resolved. The Parties shall, in accordance with their national laws and practices, give their authorization and consent for all use and manufacture in the course of work performed under the project of any invention covered by a Patent issued by their respective countries.

ARTICLE IX

CONTROLLED UNCLASSIFIED INFORMATION

9.1. Except as otherwise provided in this Agreement or as authorized in writing by the originating Party, Controlled Unclassified Information provided or generated pursuant to this Agreement and any of its PAs shall be controlled as follows:

- 9.1.1. Such information shall be used only for the purposes authorized for use of Project Information as specified in Article VIII (Disclosure and Use of Project Information).
- 9.1.2. Access to such information shall be limited to personnel whose access is necessary for the permitted use under subparagraph 9.1.1., and shall be subject to the provisions of Article XII (Third Party Sales and Transfers).
- 9.1.3. Each Party shall take all lawful steps, which may include national classification, available to it to keep such information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 9.1.2., unless the originating Party consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification shall be given to the originating Party.

9.2. To assist in providing the appropriate controls, the originating Party shall ensure that Controlled Unclassified Information is appropriately marked. The Parties shall decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information. The appropriate markings shall be defined in the Project Security Instruction.

9.3. Controlled Unclassified Information provided or generated pursuant to this Agreement and any of its PAs shall be handled in a manner that ensures control as provided for in paragraph 9.1.

9.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Parties shall ensure that the Contractors are legally bound to control such information in accordance with the provisions of this Article.

ARTICLE X

VISITS TO ESTABLISHMENTS

10.1. Each Party shall permit visits to its government establishments, agencies and laboratories, and Contractor industrial facilities by employees of the other Party or by employees of the other Party's Contractor(s), provided that the visit is authorized by both Parties and the employees have any necessary and appropriate security clearances and a need to know.

10.2. All visiting personnel shall be required to comply with security regulations of the host Party. Any information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be subject to the provisions of this Agreement.

10.3. Requests for visits by personnel of one Party to a facility of the other Party shall be coordinated through official channels, and shall conform to the established visit procedures of the host country. Requests for visits shall bear the name of this Agreement and the appropriate PA.

10.4. Lists of personnel of each Party required to visit, on a continuing basis, facilities of the other Party shall be submitted through official channels in accordance with recurring international visit procedures.